## DEPARTMENT OF REVENUE

DATE 3-30-09 SB 244

## 42.3.113 WAIVER FOR EXTRAORDINARY CIRCUMSTANCES AND IN THE INTEREST OF THE JUST AND EFFICIENT ENFORCEMENT OF THE LAW

(1) Except as otherwise provided by statute, the director or the director's designee may, in their discretion waive a penalty and interest when the taxpayer demonstrates extraordinary circumstances which justify the waiver of the penalty and interest for the just and efficient enforcement of the law. (History: 15-1-201, 15-30-305, 15-31-501, 15-35-122, 15-53-155, 15-70-104, MCA; IMP, 15-1-206, 15-1-216, 15-30-321, 15-31-502, 15-35-105, 15-37-108, 15-38-107, 15-53-155, 15-59-106, 15-60-208, 15-61-205, 15-65-115, MCA; NEW, 1985 MAR p. 113, Eff. 2/1/85; AMD, 2007 MAR p. 509, Eff. 4/27/07.)

<u>42.3.114 APPLICATION OF 15-1-206(1), MCA</u> (REPEALED) (History: 2-4-201, 15-1-201, 15-1-206, 15-30-305, 15-31-501, 15-35-122, 15-36-107, 15-37-108, 15-38-107, 15-53-104, 15-54-111, 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205, 15-70-104, MCA; <u>IMP</u>, 2-4-201, 15-1-206, 15-30-321, 15-31-502, 15-35-105, 15-36-107, 15-37-108, 15-38-107, 15-53-111, 15-54-111, 15-55-108, 15-56-111, 15-58-106, 15-59-106, 15-59-205, 15-70-210, 15-70-330, MCA; <u>NEW</u>, 1985 MAR p. 113, Eff. 2/1/85; <u>REP</u>, 2007 MAR p. 509, Eff. 4/27/07.)

## 42.3.115 REASONABLE CAUSE FOR WAIVER OF LATE PAYMENT PENALTY FOR AMENDED TAX RETURNS AND PAYMENT OF DEBT WITHIN 30 DAYS (1) Reasonable cause exists for waiver of the late payment penalty if the

taxpayer has voluntarily filed an amended tax return and paid the tax.

- (2) Reasonable cause exists for waiver of the late payment penalty if the taxpayer pays tax and interest due when notified by the department within 30 days of the department's first Statement of Account (SOA). This reasonable cause provision only applies to the first SOA sent to the taxpayer. For example, the department mails monthly SOAs to taxpayers notifying them of any tax, penalty, and interest due. The department will only consider waiver of the late payment penalty for the first SOA mailed to the taxpayer for that tax period.
- (3) Unless otherwise defined in these rules, under no circumstance will interest be waived for tax due.
- (4) In order to receive consideration for the waiver of the late payment penalty, the taxpayer will need to request the waiver on a form provided by the department or in writing.
- (5) This rule only applies to late payment penalty and does not prohibit the taxpayer from seeking waiver or write-off of interest or additional penalties provided for in other department rules. (History: 15-1-201, 15-1-217, MCA; IMP, 15-1-206, 15-1-216, MCA; NEW, 2007 MAR p. 509, Eff. 4/27/07.)

Rules 42.3.116 through 42.3.119 reserved

If this is the first statement of account (SOA) for this period and your SOA includes a late payment penalty, upon written request, we may waive that penalty if you pay the tax and interest due for this filing period within 30 days. The waiver of penalty will not apply to any previously assessed filing periods. If your payment is made more than 30 days after the first SOA, we cannot waive the late payment penalty unless reasonable cause exists.

## **Explanation of Statement**

Interest and Penalties - Interest is assessed on your account at the beginning of each month, and accrues daily on any unpaid tax at a rate of 12% a year. Penalties are assessed on your account as applicable. Any late payment penalty accrues at 1.5% a month, not to exceed 18% of the tax due, for tax periods beginning on or before December 31, 2006. For tax periods beginning after December 31, 2006, the late payment penalty continues to accrue at 1.5% a month, but cannot exceed 15% of the tax due. Any late file penalty is assessed at \$50 or the amount of the tax due, whichever is less.

Payments (\*\*) Column - A positive value in the payments column indicates that you now owe for a prior credit amount claimed or received. The following are examples of how these changes can occur:

- You may have already received a refund for the period, but have since amended the return, which reduced the amount of refund due to you. The excess refund amount is now owed to the department.
- You have claimed more credit carried forward than the amount of credit available on your account.

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